

Chapter 12

REAL ESTATE

Fixed facilities are needed within the Theater of Operations to support committed forces. These facilities house administrative, logistic, and maintenance functions. Such activities should be put into existing facilities whenever possible, so that they can rapidly begin operation. The engineer effort can then be invested in other immediate commitments. The Army Real Estate Program is directed toward obtaining and managing in-place facilities. In the absence of existing facilities, the program may advise new construction. It controls all real estate activities within the Theater of Operations, thus fulfilling a vital support mission for military operations.

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OBJECTIVES

The efficient conduct of real estate activities depends largely on a command-wide understanding of the objectives of the real estate program in overseas commands. These objectives are:

- Ž Acquire and administer real property essential to the mission.
- Ž Acquire and use existing facilities in order to keep new construction to a minimum.

- Ž Protect the United States and its allies against unjust and unreasonable claims and charges for using, renting, or leasing real or personal property.

- Ž Provide reasonable compensation to individuals or agencies for the use of real property, except when such property is located in a combat zone or in enemy territory.

DEPARTMENT OF THE ARMY POLICIES

Department of the Army policy concerning real estate acquisitions is described in AR 405-10 and TM 5-300. Real estate operations in overseas theaters are based on the following general principles.

- Ž Adhere to international conventions. United States forces will adhere to the provisions of the Hague Convention (1907), the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949), the Hague Convention Relative to the Protection of Cultural Property in the Event of Armed Conflict (1954), and FM 27-10.

- Ž Conform to international agreements. The Army Real Estate Program will conform to international agreements and all other agreements affecting the United States, such as treaties, memoranda of understanding, lend-lease, reciprocal aid, military assistance, Status of Forces Agreements (SOFA), and civil affairs agreements.

- Ž Make appropriate compensation. When required, a fair and reasonable rental will be paid for real estate used, occupied, and held by the United States Army. Payment for the occupation of lands will not be made to any person or persons, however,

who are of enemy nationality or who are hostile to interests of the United States. Compensation will not be made for any real property located in the combat zone which is lost, damaged, or destroyed as a result of military action.

- Ž Honor host nation laws. United States forces will honor, to the fullest extent possible consistent with military requirements, the real estate laws and customs of the host country.

- Ž Use existing facilities. United States forces will use existing facilities as much as possible to reduce the need for new construction and conserve resources, time, and personnel.

- Ž Minimize acquisition. Real estate acquisition will be held to an absolute minimum, consistent with military requirements, to prevent disruption of the local economy. Joint utilization by the services will be encouraged. Unnecessary duplication of function and services will be avoided.

- Ž Follow appropriate acquisition policies. Full use of the host nation's governmental agencies will be made whenever possible, if not restricted by treaties. Acquisition of real estate in an overseas Theater of

Operations will be by requisition, lease, or through consignment by the host nation to the United States where the property is in

the territory of an ally; or by requisition, confiscation, or seizure when property is in enemy territory.

RESPONSIBILITY FOR REAL ESTATE

CHIEF OF ENGINEERS

The Chief of Engineers is the Department of the Army staff officer responsible for real estate functions and, as such, exercises staff supervision over Army real estate activities of overseas commands. The responsibilities of the Chief of Engineers are as follows:

- Ž Provide technical advice and assistance in handling real estate procurement, management, and disposal.
- Ž Issue instructions.
- Ž Enforce applicable directives, policies, and regulations.
- Ž Review records and reports.

UNIFIED COMMANDERS

Unified commanders are responsible for carrying out the following duties:

- Ž Determine real estate requirements.
- Ž Plan, execute, and analyze real estate operations in accordance with pertinent directives, policies, and regulations.
- Ž Prepare budget estimates and justifications, as directed.
- Ž Prepare and submit real estate reports, as directed.
- Ž Conduct utilization inspection in accordance with instructions and criteria furnished by the Chief of Engineers.

- Ž Notify the Chief of Engineers of utilization problems which require action at Headquarters, Department of the Army level.

- Ž Furnish the Chief of Engineers with copies of all intercommand real estate and space utilization directives.

THEATER COMMANDER

The commander of a Theater of Operations is responsible for all real estate activities within the theater. This authority may be delegated to a designated deputy, or to the theater Army, Navy, or Air Force component commander who has the greatest requirement. Maintaining a single interservice real estate facility use policy consolidates activities, reduces duplication, and limits the impact on the local economy. The theater commander may either establish a central real estate office to direct and record all real estate activities or direct that such an office be established by the commander assigned real estate responsibility.

THEATER ARMY (TA) COMMANDER

If the TA commander is assigned responsibility for theater real estate operations, all or part of this responsibility may be redelegated to the Communications Zone Commander. The TA commander often retains control of real estate in the combat zone, redelegating responsibility for rear areas only.

THEATER ENGINEER

The theater engineer operates and manages real estate and property acquisition, maintenance, and disposal functions. A suggested

organization of a theater engineer's real estate division is shown below. The duties of this division include:

- Ž Furnish technical real estate guidance and advice to the theater commander, staff, and all echelons of the theater command.
- Ž Recommend real estate policies and operation procedures to the theater logistics officer.
- Ž With approval by the theater logistics officer, prepare, coordinate, distribute, and exercise staff supervision over the execution of theater real estate directives.
- Ž Acquire, manage, dispose of, pay rents and damages for, handle claims, and prepare records and reports for real estate used within the Theater of Operations.
- Ž Maintain a theater real estate office.
- Ž Prepare long-range real estate plans and requirements.
- Ž Use existing facilities as much as possible to reduce the need for new construction.
- Ž Exercise staff supervision over the real estate operations of subordinate commands.
- Ž Ensure compliance with international agreements and the law of land warfare.
- Ž Coordinate with the authorities of the friendly host nation.

When the theater commander delegates real estate authority to the TA commander, the duties enumerated above are performed for

all services by the theater engineer. When the commander of another service is responsible for real estate activities, only the appropriate duties for the Army command are performed by the theater engineer.

SUBORDINATE COMMAND ENGINEERS

Engineers of commands below the theater engineer are responsible for furnishing technical real estate guidance to the commanders, staffs, and subordinate echelon of the commands. They handle such other real estate duties as may be assigned or subdelegated to them by the TA commander.

ARMY ENGINEER REAL ESTATE TEAMS

Army Engineer Real Estate (AERE) teams are responsible to the Area Support Command (ASC) and conduct real estate operations within their assigned areas in accordance with directives, instructions, and standing operating procedures. Their duties include—

- Ž Acquire, manage, and dispose of real estate.
- Ž Investigate, process, and settle real estate claims.
- Ž Conduct utilization inspections.
- Ž Record, document, and prepare reports on real estate used, occupied, or held by the Army within their assigned areas.
- Ž Coordinate with agencies of the friendly host nation to execute joint US/host nation real estate functions.

PLANNING

Real estate operations plans are based on directives or instructions issued to the theater commander by the Joint Chiefs of Staff, or by the service commander appointed executive agent for the JCS. Other policies are established by the theater commander based upon directives and instructions issued by the JCS.

Real estate planning must be initiated in the preparatory phases of a campaign by a planning group that includes the theater general staff and representatives of all service commanders. The agency that will handle theater real estate operations when the campaign begins is organized at this time, and should

participate in all planning activities. In addition to plans for real estate operations during hostilities, consideration should be given to real estate requirements for the occupation period after hostilities cease.

Qualified personnel are essential to the handling of real estate responsibilities, since such activities can have major consequences in relations between US forces and the host nation. Military legal officers and civilian lawyers familiar with the laws of countries within the Theater of Operations should assist the planning group with advice and technical review of proposed real estate policies and procedures.

PROPERTY ACQUISITION

In the active combat zone, real estate required by US forces is acquired by seizure or requisition, without formal documentation. Seizure is resorted to only when it is justified by urgent military necessity, and only with the approval of the commander who has area responsibility. Host nation property may be occupied without documentation to the extent that tactical operations dictate, and in accordance with US\host nation agreements.

Normally, property is obtained through requisition, which is a demand upon the owner of the property or the owner's representative. No rent or other compensation is paid for requisitioned or seized property in the combat zone either for its use or for

damage resulting from acts of war or caused by ordinary military wear and tear.

Outside the active combat zone, property is acquired only by requisition, and all transactions are documented thoroughly under the applicable provisions of theater directives. Large tracts of real estate are required for ports, staging areas, training and maneuver areas, leave centers, supply depots, and headquarters installations. Some of this property may be highly developed and have considerable value to the civilian population. Procedures must provide the property required while ensuring that the legal rights of owners are protected.

EXISTING FACILITIES

Existing facilities should be used whenever they are available. The advantages of using existing facilities are—

- Ž Swift occupation by military activities.
- Ž The presence of existing utilities, telephone service, and connecting air/ground/sea lines of communication (LOC) facilities.
- Ž Availability of on-site administrative and industrial equipment.
- Ž Less diversion of troops from combat missions.
- Ž Smaller outlay of government funds.
- Ž Some inherent camouflaging of military activity.

The advantages of using existing facilities normally outweigh disadvantages. Some disadvantages, however, may make facilities undesirable for military use. Planners should consider alternatives when existing facilities cannot be adapted to desirable survivability standards, when dispersion is difficult or impossible, or when facilities cannot be tailored to military needs.

ACQUISITION

Local government officials can help identify available facilities or properties that meet or approximate military requirements. If these officials are unable to provide adequate assistance, military intelligence sources can be used to locate facilities. Civil affairs personnel and/or AERE teams may work through local government officials or directly contact property owners to settle agreements. Local government officials will normally

evict and resettle any civilians from property requisitioned by the military forces. Only in the most urgent circumstances, or upon refusal of local authorities to act, will eviction be handled by the Army.

A representative of the local government should assist in preparing all property inventories. It is particularly important that requisitions carry the correct property descriptions, and that local government officials check all requisitions against the corresponding entries in their permanent records. If local records have been destroyed, the local authorities must establish a correct legal identification for the requisitioned property. The signature of the local official charged with real estate responsibility must be obtained on both the initial and release inventories. This official signature is required by international agreement to ensure that the US Government will be protected from unjust claims for loss of or damage to property used by US forces.

MODIFICATION

Instances may arise when it will be beneficial to modify existing facilities in order to better serve military needs. Correcting deficiencies should be the primary focus of general engineering work. Theater planning should identify deficiencies and corrective actions that need to be taken. Theater real estate principles for property acquisition apply as discussed above. Some additional compensation to property owners may be required, however. The ingenuity of Army engineers, host nation and civilian contractors, combined with tools such as AFCS, will be required to adapt existing facilities to military use.

FACILITY CONSTRUCTION

New construction in the Theater of Operations is normally limited to facilities that are vital—as defined in Chapter 1—to the accom-

plishment of the overall mission, where no existing facility meets the criteria.